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## MEMORANDUM

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**TO:** Rick Peo, City Attorney

**FROM:** Marvin Krout, Director of Planning 

**SUBJECT:** Dedication of Crestdale Road near 56<sup>th</sup> and A Street

**DATE:** January 27, 2014

**CC:** Miki Esposito, Roger Figard, Bob Simmering, Public Works and Utilities  
Clint Thomas, Dave Landis, Urban Development Department

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The adjacent land owners have requested the city rededicate Crestdale Road southeast of it's intersection with Ellendale Road. (See attached map.) This property is northwest of the intersection of S. 56<sup>th</sup> and A Street. The land owners are the only two lots that are adjacent to this section of Crestdale Road which was vacated by the Lincoln City Council in 1974 by Ordinance 11221.

Background:

This diagonal section of Crestdale is paved but the pavement ends before the intersection of 56<sup>th</sup> and A Street. Thus, Crestdale is a dead-end street but the sidewalk along the south side connects to the sidewalk along A Street. This sidewalk provides an important pedestrian link for neighborhood residents to Roberts Park to the southeast and schools to the east.

This section of vacated right-of-way has an unusual history. It appears that the original request in 1974 was to vacate the entire length of Crestdale from Ellendale to A Street. However, in 1974 the request was amended after its introduction at City Council to only vacate about a 150 foot section southeast of Ellendale. (The vacated section indicated in red on map.) The reason for the amendment is unclear, but it appears it was made by City staff. This meant that the remaining 150 feet of Crestdale was not vacated.

The title to the land was never transferred to the adjacent owners. It is possible that since the entire road was not vacated the owners decided against purchasing the vacated right-of-way.

So the City retains ownership to the land and has maintained the street ever since. However, the adjacent lots technically no longer have their driveways on a public street as both houses have driveway connections to the vacated portion of the street. One of the adjacent lots is for sale and the buyer's title company caught the situation. Neither the adjacent owners nor the buyer are interested in buying the vacated right-of-way and have signed letters requesting the dedication as to avoid legal questions about the status of their property.

## Crestdale Road Dedication

In essence this portion of Crestdale Road has remained a public street for the past 40 years since it was vacated. The street has been owned and maintained by the City and for all appearances looks like any other city street in Lincoln. The buyers of the adjacent home were surprised to discover that a portion of the street was vacated even though it appeared to be a public street. Since the street paving of Crestdale doesn't connect to A Street, City maintenance crews must drive through the vacated portion to reach the portion that is not vacated. There is also a water main on the north side of the road that runs from Ellendale to A Street.

Staff from four departments were involved in researching and reviewing the circumstances. After discussion, staff agreed that it didn't make sense to keep the street vacated as the adjacent owners didn't wish to purchase the partially vacated street or vacate the entire street. While this dead end street only serves two lots, the City maintains dead end streets, such as cul-de-sacs all throughout the city. The vacated portion of the street also causes confusion in that since technically it is not a public street, the City can't enforce parking regulations on land that isn't public right-of-way.

### Finding:

The request to rededicate the land as public right-of-way is consistent with the Comprehensive Plan. The dedication of the land will provide that two homes have access to a public street. The dedication also reconnects the portion of the Crestdale Road pavement which is not vacated to a paved street so that City maintenance vehicles can access the right-of-way via a public street.

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1/25/2014

Jon E. and Terri L. Burchess  
1345 Crestdale Rd  
Lincoln, NE 68510

Stephen S. Henrichsen  
Development Review Manager  
Lincoln/Lancaster County Planning Department  
555 S 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508

RE: Request to dedicate land to public use, right-of-way, vacated by Ordinance 11221.

Dear Mr. Henrichsen:

We are current owners and residents of 1345 Crestdale Road, Lincoln, NE 68510. Part of Crestdale Rd directly in front of our property was vacated by Ordinance 11221 and approved by the Lincoln City Council on October 28, 1974. We have attached a map of the vacated area for your reference.

We are aware that the current owner/resident adjacent to our property at 1340 is in the process of selling her home. The title company she is using for closing is concerned whether she technically has access to her driveway by way of the vacated street. We will likely have a similar issue should we go to sell our property in the future.

We request the vacated land be dedicated to public use, right-of-way. We understand that this request is timely due to a succession of sale and purchase closings set for February 20<sup>th</sup> 2014.

Thank you for your consideration.

Sincerely,



Jon E. Burchess  
Owner/Resident  
1345 Crestdale Rd  
Lincoln, NE 68510



Terri L. Burchess  
Owner/Resident  
1345 Crestdale Rd  
Lincoln, NE 68510

1/25/2014

Valerie A. Smith  
1340 Crestdale Rd  
Lincoln, NE 68510

Stephen S. Henrichsen  
Development Review Manager  
Lincoln/Lancaster County Planning Department  
555 S 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508

RE: Request to dedicate land to public use, right-of-way, that was vacated by Ordinance 11221.

Dear Mr. Henrichsen:

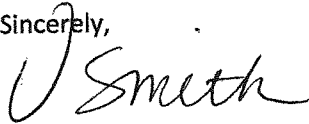
I am current owner and resident of 1340 Crestdale Road, Lincoln, NE 68510. Part of Crestdale Rd directly in front of my property was vacated by Ordinance 11221 and approved by the Lincoln City Council on October 28, 1974. I have attached a map of the vacated area for your reference.

I am currently in the process of selling my home. The title company I am using for closing is concerned whether I technically have access to my driveway by way of the vacated street. This is a very timely issue for me since there have been a succession of closings set for February 20<sup>th</sup>, 2014.

I request the vacated land be dedicated to public use, right-of-way. This will satisfy the concerns of the title company and clear up any future access questions to my property.

Thank you for your consideration.

Sincerely,



Valerie A. Smith  
Owner/Resident  
1340 Crestdale Rd  
Lincoln, NE 68510



1/25/2014

Douglas J. and Mary E. Koenig  
Prospective Buyers of  
1340 Crestdale Rd  
Lincoln, NE 68510

Stephen S. Henrichsen  
Development Review Manager  
Lincoln/Lancaster County Planning Department  
555 S 10<sup>th</sup> Street, Suite 213  
Lincoln, NE 68508

RE: Request to dedicate land to public use, right-of-way, vacated by Ordinance 11221.

Dear Mr. Henrichsen:

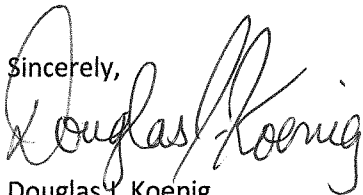
Valerie Smith is the current owner/resident of 1340 Crestdale Road, Lincoln, NE 68510. Doug and Mary Koenig are the perspective buyers of this property. There is an executed purchase agreement between seller and buyer with a closing date set for February 20<sup>th</sup>. Part of the street directly in front of the 1340 Crestdale Road property was vacated by Ordinance 11221 and approved by the Lincoln City Council on October 28, 1974. We have attached a map of the vacated area for your reference.

The title company employed for the purchase of the home has identified the vacated street as a concern. The question is whether the property at 1340 Crestdale Road technically has access to the driveway by way of the vacated street.

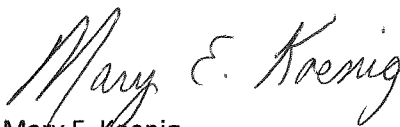
As the prospective buyers of the 1340 Crestdale Road property, we request the vacated land be dedicated to public use, right-of-way. This request is urgent due to 4 successive sale and purchase closings set for February 20<sup>th</sup> 2014.

Thank you for your consideration.

Sincerely,



Douglas J. Koenig  
Current Resident of  
3433 Woods Ave  
Lincoln, NE 68510  
(h) 402-483-5061  
(c) 402-440-3081



Mary E. Koenig  
Current Resident of  
3433 Woods Ave  
Lincoln, NE 68510  
(h) 402-483-5061